IN THE HIGH COURT OF UTTARANCHAL
AT NAINTIAL.

WRIT PETITION NO.208 OF 2002 (M/S)

Hari Om Mehrotra. ……. Petitioner.

Versus

Chief Judicial Magistrate, Hardwar
And another. ……. Respondents.

HON'BLE RAJESH TANDON

By the present writ petition the petitioner has challenged the order passed in appeal No.28 of 2001 dated 28.01.2002 by which the Appellate Authority, Chief Judicial Magistrate, Haridwar has fixed the valuation of Rs. 1,50,000/- on the property in dispute.

Briefly stated, the petitioner has purchased the property on a sum of Rs. 10,00,000/- of an constructed covered area 268.989 meters. The petitioner has received demand notice from the Water Tax and House Tax bill No. 1648/75 dated 28th July, 2001. On receiving the demand bill the petitioner has approached the Appellate Authority and preferred an appeal before the Chief Judicial Magistrate. The Chief Judicial Magistrate has fixed the valuation to the extent of Rs. 1,50,000/-. The sole contention of the petitioner is that the valuation has not been fixed in accordance with Section 14(a) of U.P. Municipalities Act, 1916 which provides the criteria for valuation to the following effect:

"Section 140(a). In the case of railway stations, hotels, colleges, schools, hospitals, factories, and other such buildings, a proportion not exceeding five

percentum, to be fixed by rule made in this behalf of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appurtenant thereto."

Clause (b) of Section 140 provides the valuation of the building other than falling under clause (a) of Section 140. According to the averments made in the writ petition as well as in the judgment itself the petitioner is running the hotel where there are 12 rooms. The Municipal Authorities has fixed the valuation to the extent of Rs. 2,00,000/- when in point of fact the petitioner has disputed the same that the same can not exceed more than Rs. 20,000/-.

I find that the criteria for determining the annual value defined under section 140(a) with regard to the commercial buildings and in clause (b) not falling under clause (a) has to be determined in accordance with the norms fixed under the Act.

In view of the aforesaid facts the matter is sent back to the Chief Judicial Magistrate who shall decide the same in accordance with the provisions contained under the U.P. Municipalities Act. The petitioner shall also co.operate in getting the valuation in accordance with the provisions of Section 140 of the Municipalities Act by supplying the necessary documents with regard to the cost of the building and also the estimated value of the land appurtenant thereto showing assessment of the building.

The writ petition is allowed. The order dated 28.01.2002 is quashed and the matter is sent back to the Appellate Court who shall decide the matter afresh in accordance with the observations made above.

Dated: 13.09.2004.
s.s.Negi. **(Rajesh Tandon J)**